



DELAINE EASTIN
State Superintendent of Public Instruction

**CALIFORNIA
DEPARTMENT
OF
EDUCATION**

1430 N Street

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Sacramento, CA

94244-2720

TITLE 5. Education

California State Superintendent of Public Instruction

NOTICE OF PROPOSED RULEMAKING

Centralized Eligibility Lists (CELs) Regulations

[Notice published January 3, 2003]

The State Superintendent of Public Instruction (Superintendent) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

The Superintendent will hold a public hearing starting at **10:00 a.m. on February 18, 2003**, at 1430 N Street, Room 4101, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Superintendent requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. All written comments must be received by the Regulations Adoption Coordinator no later than **5:00 p.m. on February 18, 2003**. Requests to present oral statements at the public hearing or written comments for the Superintendent's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814-5901
E-mail: dstrain@cde.ca.gov
Telephone: (916) 319-0641
FAX number: (916) 319-0155

AUTHORITY AND REFERENCE

Education Code section 8203 requires that Superintendent develop standards for the implementation of quality programs for child care and development programs operated pursuant to Chapter 2 of Part 6 of Division 1 of the Education Code.

Education Code section 8261 requires that the Superintendent adopt rules and regulations that provide for a contract monitoring system to ensure that agencies expend state funds in accordance with the provisions of their contracts in programs operated pursuant to Chapter 2 of Part 6 of Division 1 of the Education Code.

References: Sections 8203, 8208, 8244, 8261, 8261(a)(2), 8360.1, 18023, 18272, 18273, 18274, 18275, 18279, 18280, and 18281, Education Code.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

The Superintendent proposes to amend Section 18106 (e) of Chapter 19, Subchapter 3, Article 4, pertaining to Child Care and Development Programs, Admission Policies and Procedures.

Education Code sections 8261 and 8263 require the State Superintendent of Public Instruction (Superintendent) to adopt regulations on eligibility, enrollment, and priority of services for child care and development programs operated by contractors with the California Department of Education, Child Development Division.

Education Code section 8499.5(b)(8) requires Local Child Care and Development Planning Councils (LPCs) to design a system to consolidate local child care waiting lists. Provision 7(d) of Schedule (b)(11) of item 6110-196-001 in the Budget Act of 2000-01 authorizes funds for a Centralized Waiting List Pilot Program.

Child Development Division Management Bulletin MB 00-22, October 2000, announced the Centralized Eligibility List (CEL) Pilot Project and invited LPCs to request Pilot Project funds for start-up costs or to maintain, improve, or expand existing CEL systems. Nine counties were selected to participate in the CEL Pilot Project. The Pilot Project was originally scheduled to end on June 30, 2002, but has been extended in several counties to June 30, 2003.

Title 5, California Code of Regulations, Section 18106 requires contractors to maintain a waiting list in accordance with certain admission priorities and contact applicants in order of priority from the waiting list as vacancies occur. Since Child Development Division contractors are audited annually and monitored periodically for compliance with Title 5 regulations, contractors participating in CEL Pilots are at risk of audit exceptions and withholding of apportionments if they participate in the CEL instead of maintaining their own list. In addition, a few contractors have refused to participate in CELs even though they provide services in counties where CELs are currently in operation.

The proposed regulation will enable contractors to satisfy the requirement for maintaining a waiting list for their programs by participating in their county's CEL. The proposed regulation will also require contractors in counties that have funding for a CEL to participate in the CEL.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed upon local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impact on a representative private person or business: The Superintendent is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: The superintendent has made an initial determination that the proposed regulatory action would not affect housing costs.

Effect on small businesses: The proposed regulations will have no effect on small businesses because child care businesses contracting with the Child Development Division are already required to maintain a waiting list.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Superintendent must determine that no reasonable alternative considered by the Superintendent or that has otherwise been identified and brought to the attention of the Superintendent would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Superintendent invites interested persons to present statements or arguments regarding alternatives to the proposed regulations at the above-mentioned hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Cecelia Fisher-Dahms, Child Development Consultant
California Department of Education
Child Development Division
1430 N Street, Room 6308
Sacramento, California 95814-5901
Telephone: (916) 322-4883

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Adoption Coordinator, or to the backup contact person, Pat McGinnis, at (916) 319-0649.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is

published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the Superintendent may adopt the proposed regulations substantially as described in this notice. If the Superintendent makes modifications which are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the Superintendent adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The Regulations Adoption Coordinator will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/regulations>.